

State of California
Natural Resources Agency / Department of Conservation
DIVISION OF OIL, GAS AND GEOTHERMAL RESOURCES

California Environmental Quality Act

Notice of Exemption 2019038510

To: Office of Planning & Research
State Clearinghouse
1400 Tenth Street, Room 113
Sacramento, CA 95814

From: Department of Conservation
Division of Oil, Gas, & Geothermal Resources
801 K Street, MS 18-05
Sacramento, CA 95814

Contact: Cathi Slaminski, (916) 445-9686

Project Title: Requirements for Idle Well Testing and Management
(OAL Notice File Number: Z-2018-0717-07)

Project Location: Statewide

Project Description: The project is a rulemaking action taken by the Department of Conservation, Division of Oil, Gas, and Geothermal Resources (Division) to review, evaluate, and update its regulations pertaining to idle wells. The project will: (1) update fluid-level testing requirements to require that operators determine if the fluid level in an idle well is above the base of an underground source of drinking water; (2) update testing requirements for verifying the mechanical integrity of an idle well; (3) set appropriate remediation standards for an idle well if there is an indication the well lacks mechanical integrity; and (4) set engineering analysis standards that demonstrate to the Division's satisfaction that a well that has been idle for 15 years or more is viable to be returned to operation in the future. The project amends California Code of Regulations, title 14, sections 1723.9 and 1760 and the project adopts sections 1752, 1772, 1772.1, 1772.1.1, 1772.1.2, 1772.1.3, 1772.1.4, 1772.2, 1772.3, 1772.4., 1772.5, 1772.6, and 1772.7.

The proposed regulations will implement, interpret, make specific, or reference Public Resources Code sections 3008, 3106, 3206, and 3206.1. The additions to the existing regulations are necessary to implement Public Resources Code section 3206.1 established under Assembly Bill 2729 (Williams, Chapter 272, Statutes of 2016) (AB 2729), effective January 1, 2017. Public Resources Code section 3206.1 requires the Division to review, evaluate, and update, where appropriate, its existing regulations pertaining to idle wells. These regulations respond to that mandate. The addition of the regulations is consistent with the Division's broader mandate under Public Resources Code section 3106 to prevent damage to life, health, property, and natural resources.

The amendments include:

- Establishing fluid level testing requirements for idle wells.
- Establishing a comprehensive testing regime for idle wells.
- Requiring operators of idle wells inventory and evaluate each idle well to create a risk-based approach for the prioritization of wells to be tested or plugged and abandoned.
- Establishing mechanical integrity testing requirements that allow operators to test each idle well according to the risk that the well poses.
- Establishing engineering analysis requirements for idle wells that have been idle for 15 or more years.
- Establishing a testing waiver plan that would avoid unnecessary testing for idle wells selected for plugging and abandonment.
- Establishing requirements for the partial plugging of idle wells and mechanical integrity testing standards for partially plugged idle wells.
- Requiring operators test and monitor the integrity of observation wells.
- Requiring verification of injection or production of any well that reported such activity to prevent and detect misrepresentations that a well is an active well.

Public Review & Comment:

A 48-day public review and comment period on the proposed regulatory amendments (project) was held July 27, 2018 through September 13, 2018. This was followed by two, 15-day public comment periods on the revised text that were held on October 29, 2018 to November 14, 2018 and February 12, 2019 to February 28, 2019.

Exempt Status:

As the Lead Agency, the Division, has determined that the proposed project is exempt from further environmental review requirements under the California Environmental Quality Act (CEQA), pursuant to the specified exemptions marked in the section below. The Division further finds that there is no possibility that implementation of the activities required by the proposed project would result in a significant adverse impact to the environment, or that any of the exceptions to the exemptions apply. (Cal. Code Regs., tit. 14, § 15300.2.)

Exemption Type	Statute (PRC)	Regulation (14 CCR)	
<input type="checkbox"/> Statutory Exemption:			
<input type="checkbox"/> Ministerial	21080 (b)(1)	15268	
<input type="checkbox"/> Declared Emergency	21080 (b)(3)	15269 (a)	
<input type="checkbox"/> Emergency Projects	21080 (b)(4)	15269 (b) or (c)	
<input checked="" type="checkbox"/> Categorical Exemption:	21084		
<input type="checkbox"/> Class 1: Existing Facilities		15301	1684.1
<input type="checkbox"/> Class 3: New Construction/Conversion of Small Structures		15303	
<input type="checkbox"/> Class 4: Minor Alterations to Land		15304	1684.2
<input checked="" type="checkbox"/> Class 7: Protection of Natural Resources		15307	
<input checked="" type="checkbox"/> Class 8: Protection of the Environment		15308	
<input type="checkbox"/> Class 11: Accessory Structures		15311	
<input type="checkbox"/> Class 21: Enforcement Actions to revoke a permit		15321	
<input type="checkbox"/> Class 30: Minor Actions to Prevent, Minimize, Stabilize, Mitigate, or Eliminate a Release (Actual or Threat) of Hazardous Substances (Waste or Material)		15330	
<input type="checkbox"/> Class 33: Small Habitat Restoration Projects		15333	
<input checked="" type="checkbox"/> General Exemption ("common sense")		15061 (b)(3)	

CEQA Exceptions to the Exemptions (Cal. Code Regs., tit. 14, § 15300.2): where the project is located (e.g. sensitive environment); Cumulative Impact; Significant Effect due to Unusual Circumstances; Scenic Highways; Hazardous Waste Sites; and Historical Resources.

Reasons Why Project is Exempt:

The basis for the Division's determination that the proposed project is exempt from the requirements of CEQA, is provided in the brief explanation below.

Class 7 – Protection of Natural Resources
Class 8 – Protection of the Environment

The Division has determined that the regulatory amendments are categorically exempt from CEQA under the "Class 7" and "Class 8" exemptions, because it is an action taken by a regulatory agency to assure the protection of the environment where the regulatory process involves procedures for protection of the environment. (Cal. Code Regs., tit. 14, §§ 15307 and 15308.)

The Division regulates more than 28,000 idle wells statewide. Existing requirements provide operators with little incentive to properly plug and abandon idle wells, and Division statistics reveal that very few of these wells are ever returned to use. Idle wells that are not properly tested and maintained for integrity pose a range of threats to life, health, safety, and natural resources, including potential contamination of groundwater, dilution of hydrocarbon resources, and emission of methane and other gases into the atmosphere.

2019038510

These regulations concerning the testing, maintenance, and abandonment of idle wells and observation wells respond to the mandate of Public Resources Code section 3206.1, as well as the Division's broader mandate under Public Resources Code section 3106, by requiring more rigorous testing of idle wells and observation wells, operator evaluation of idle wells, and engineering analyses for idle wells that have been idle for 15 or more years. The regulations will ensure that wells do not become a potential conduit for contamination of groundwater, dilution of hydrocarbon resources, or leaking methane into the atmosphere, thereby protecting natural resources and the environment, and overall would enhance protection of life, health, property, natural resources, and the environment, and there will be no physical change in the environment resulting from the activities needed to comply with the amendments. For these reasons, the Division has determined there is no substantial evidence indicating the project could adversely affect any of the environmental resource areas, as listed in Appendix G of the CEQA Guidelines.

Exceptions to Categorical Exemptions

The Division further finds that there are no exceptions to the otherwise-applicable categorical exemptions. (Pub. Resources Code, § 21084; Cal. Code Regs., tit. 14, § 15300.2, subd. (c).) There is no substantial evidence that there are any "unusual circumstances" associated with the proposed project that create a reasonable possibility that the activity will have a significant effect on the environment, and that there is no significant "cumulative impacts" resulting from successive projects of the same type in the same place. Therefore, reliance on these exemptions is appropriate.

General or "Common Sense" Exemption

The Division has determined that the regulatory amendments are exempt from CEQA under the General Rule or "Common Sense" exemption, which states that a project is exempt from CEQA if "the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. (Cal. Code Regs., tit. 14, § 15061, subd. (b)(3).) Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA". As discussed above, the Division has determined there is no substantial evidence indicating the activities required to implement the project could adversely affect any of the environmental resource areas, as listed in Appendix G of the CEQA Guidelines.

In addition, many of the proposed changes are administrative and procedural in nature, which would not result in significant or potentially significant adverse impacts on the environment because compliance responses to the proposed amendments would not result in any physical change to the existing environment. These administrative and procedural changes consist of adding and modifying existing terms and adding new definitions for Idle Well, Long-term idle well, Low-priority idle well, Underground Source of Drinking Water to the existing regulations to clarify the meaning of ambiguous terms, promote transparency, and support consistent application of the regulations; and requiring operators to maintain an Idle Well Inventory and Evaluation which will facilitate a risk-based approach for prioritizing idle wells for testing and plugging and abandoning.

A copy of this Notice of Exemption and all other related materials are available for public examination at the Division of Oil, Gas, and Geothermal Resources CEQA Unit, located at 801 K Street, 14th floor, Sacramento, CA 95812; or an electronic copy of these documents may be accessed online at: <http://www.conservation.ca.gov/dog/CEQA>. (pursuant to Cal. Code Regs., tit. 14, § 15062, subd. (a).)

Certified:



Cathi E. Slaminski
CEQA Unit

Department of Oil, Gas, and Geothermal Resources

Date: March 21, 2019

Governor's Office of Planning & Research

MAR 21 2019

STATE CLEARINGHOUSE

